



DIVISION OF  
ENFORCEMENT

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
100 PEARL STREET, SUITE 20-100  
NEW YORK, NY 10004-2616

February 21, 2025

BY ECF

Hon. P. Kevin Castel  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: *SEC v. Gallagher*, 21-cv-8739-PKG-GWG

Dear Judge Castel:

Plaintiff Securities and Exchange Commission ("SEC") writes to respectfully request that the current April 8, 2025 trial date be rescheduled, consistent with the Court's previous order vacating April 7, 2025 as the original trial date. (Dkt. 135.) The next conference in this matter is the final pretrial conference scheduled for March 12, 2025. Defendant Steven M. Gallagher ("Gallagher") does not consent to this request.

On October 2, 2024, the Court originally set a trial date of April 7, 2025. (Dkt. 118 at 16:24–25.) On October 4, 2024, the SEC requested that the Court vacate the April 7, 2025 trial date because it conflicted with "already-ticketed international travel and upcoming parental leave" for two different members of the SEC's three-member trial team. (Dkt. 117.) The SEC proposed an earlier date for trial, March 10, 2025, and submitted a proposed scheduling order for pretrial submissions. (*Id.*) Defendant Gallagher consented to the SEC's proposed earlier trial date and schedule. (Dkt. 133.) On November 7, 2024, the Court entered a new scheduling order in which the Court vacated the April 7, 2025 trial date, adopted the SEC's proposed scheduling order for pretrial submissions, but did not set a date for trial. (Dkt. 135.) Between December 20, 2024 and February 19, 2025, the parties filed motions *in limine* and a Joint Pretrial Order in accordance with the November 7, 2024 scheduling order. (Dkts. 144–46, 150–64, 173–74, 178.)

On February 20, 2025, the Court entered an order which, among other things, set a new trial date for April 8, 2025. (Dkt. 180.) For the same reasons that the SEC previously requested the Court reschedule the original April 7, 2025 trial date, the SEC respectfully requests that the Court reschedule the current April 8, 2025 trial date. Two of the three members of the SEC's trial team are not available for a trial that begins on April 8. Specifically, Ms. Rosen will be travelling to Japan from April 11 through 22. In

*Kindly explain  
forthwith the lack  
of availability of  
Ms. Rosen  
from June 19  
ad June 29.  
SO ORDERED  
M. M. M.  
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addition, Mr. DiBattista is expecting his second child on March 21, 2025.<sup>1</sup> Mr. DiBattista's wife will be delivering via C-section, and she will be under medical restrictions that inhibit her ability to fully ambulate or carry Mr. DiBattista's two-year old child for at least six weeks. As such, Mr. DiBattista will need to remain at home to care for his wife and children following the birth. Mr. DiBattista is scheduled to be on sick and paternity leave starting on March 21 (at the latest) until approximately July 27, 2025.

If the Court determines that a trial date before Mr. DiBattista returns from parental leave in late July is necessary, Mr. DiBattista expects that he can be prepared to temporarily return from leave to begin trial on May 5, 2025 or later.<sup>2</sup> Therefore, the SEC respectfully requests that the Court vacate the current April 8, 2025 trial date and reschedule trial to begin when counsel for the SEC is available, either on or after July 27, 2025 or May 5, 2025. The SEC thanks the Court for its consideration of this request.

Respectfully submitted,

/s/ Michael S. DiBattista

Abigail Rosen  
David Stoelting  
Michael DiBattista  
Securities and Exchange Commission  
Attorneys for Plaintiff

cc (via ECF): Eric Rosen/Kimberly Jones  
Attorneys for Defendant

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<sup>1</sup> The due date for Mr. DiBattista's second child was originally March 30, 2025, but Mr. DiBattista's wife is now scheduled for a C-section on March 21, 2025. The March 21 date was chosen based on the SEC's understanding that the Court had rejected the parties' previously proposed March 10 start date for trial. (See Dkt. 135.) Because of the earlier c-section date, Mr. DiBattista is now unable to start a trial on the originally proposed March 10 date.

<sup>2</sup> Ms. Rosen will also be unavailable between June 19 and June 29, 2025.